

# Ocean & Coastal Policy

## Network News

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### Articles

#### An Update on the Oceans Act

by Senator Ernest F. Hollings  
U.S. Senate

Three decades ago, our Nation roared into space, investing tens of billions of dollars to investigate the moon and the Sea of Tranquility. During that golden era of science, some of us also recognized the importance of exploring the seas on our own planet. Thirty years have passed since we last evaluated our national ocean and coastal policies, and a comprehensive re-evaluation is well overdue.

In 1966, Congress enacted the Marine Resources and Engineering Development Act in order to define national objectives and programs with respect to the oceans. One of the central elements of the 1966 Act was the establishment of a presidential commission, subsequently called the Stratton Commission, to develop a plan for national action in the oceans and atmosphere. The Stratton Commission's recommendations laid the foundation for U.S. ocean and coastal policy and programs and has guided their development for three decades. The Commission's report led to the

creation of the National Oceanic and Atmospheric Administration and laid the groundwork for the Coastal Zone Management Act, the Marine Mammal Protection Act, and the Magnuson Fishery Conservation and Management Act.

I have been a steadfast advocate of a new plan to establish a national ocean commission. This commission, as would be established under the Oceans Act of 2000, could comprehensively evaluate concerns that cannot be viewed effectively through current federal processes or through privately-commissioned studies. A nationally-mandated oceans commission could evaluate charges that the most critical coastal management issues, or scientific and technical research necessary to support responsible use of the EEZ, are not given appropriate priority and funding. It could consider whether ocean management regimes that have developed over the last 30 years under a variety of agencies are duplicative and uncoordinated, resulting in costly or time-consuming requirements that may provide little environmental benefit. Finally, it could address the argument that we lack a plan to evaluate and plan for future resource needs or to derive benefits from discoveries made possible by advances in ocean technology.

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**E**ditors' note: This newsletter aims to provide a forum for the exchange of news and viewpoints on U.S. national ocean and coastal policy. Contributions are invited for the following sections: Articles, Federal Agencies' Corner, Congressional Corner, Coastal States' Corner, Industry Corner, Nongovernmental Organizations' Corner, International Corner, Opinion Corner, Publications, and Forthcoming Events. The newsletter is a joint effort of the Center for the Study of Marine Policy, the National Ocean Service, NOAA, the Ocean Governance Study Group, and the Delaware Sea Grant College Program. Funding has been kindly provided by the Delaware Sea Grant College Program. The opinions expressed in this newsletter are those of the authors, not of the organizing entities.

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## Editorial

*The Oceans Act.* An impressive array of diverse interests has come together to support the passage of the Oceans Act (passed in the Senate and pending in the House), groups such the Center for Marine Conservation, Consortium for Oceanographic Research and Education, American Sportfishing Association, American Association of Port Authorities, National Marine Manufacturers Association, American Coastal Coalition, World Wildlife Fund, Coastal States Organization, National Fisheries Institute, International Council of Cruise Lines, Dredging Contractors of America, Sea Technology, Ocean Governance Study Group. These groups all recognize the need for a broad-based publicly-mandated national ocean commission to develop a national strategy for conservation and sustainable development of the oceans surrounding the United States. The Oceans Act will provide a forum for evaluating whether our national ocean priorities meet current and emerging needs, improving existing federal programs that work well, increasing the efficiency and effectiveness of programs that do not, and identifying unnecessary or outdated approaches. While support for the Oceans Act is strong and broad-based, time is getting very short with members of Congress anxious to get home to their reelection campaigns. Action must occur soon !

*The Pew Oceans Commission.* “Putting your money where your mouth is”—this is something many of us should do more often. Well, the Pew Foundation, which for years has supported many ocean conservation programs, has put its money—lots of it, \$3.5 million in all—to create the Pew Oceans Commission and has assembled a very distinguished group of public officials, business leaders, conservation and fishing interests, and scientists to work on the commission. The Commission’s agenda is focused on the conservation side of ocean policy—e.g., on such issues as unintended fishing impacts, adverse impacts of coastal development, pollution, climate change, aquaculture, and invasive species—cited by the commission as the principal threats to ocean and coastal environments. It does not appear that the commission will address other important issues in national ocean policy—such as the cross-sectoral issues of how do we make our ocean programs work better, how do we address and properly plan, simultaneously, for conservation and economic uses of our Exclusive Economic Zone, how do we harmonize the many ocean laws that we have enacted in the past 30 years.

We wish the Pew Oceans Commission well in its work—no doubt the deliberations of this distinguished group will make an important contribution to the national ocean policy debate. But, this privately-appointed and funded commission clearly cannot substitute for a national commission appointed by the President and Congress and responding to a legislatively-mandated agenda of ocean problems and issues. The Pew Oceans Commission, laudable as it is, does not eliminate the need for the Oceans Act.

*Enhancing the marine and coastal network.* In his article on the making of Australia’s ocean policy, Geoffrey Wescott provides an interesting account about the mobilization of an Australian marine and coastal community network and the critical impact it had on the formulation of Australia’s pioneering national ocean policy. There is some evidence of the emergence of a U.S. national marine and coastal network, one interested in the wide array of national ocean policy issues rather than solely on more narrow sectoral interests. This is seen in such developments as the coalition of diverse interests which is supporting the Oceans Act, the interest the Ocean Forum discussions organized by CEQ and CMC have generated, and the interest that we ourselves have seen in the content of this newsletter.

*Biliana Cicin-Sain and Robert W. Knecht*

*Editors*

At the dawn of the 21st century, we have much to gain from such a commission. At present, we generate more than 30% of our Gross Domestic Product from coastal areas, and nearly one out of every six jobs is marine-related. By the end of this decade, about 60% of Americans will live along our coasts. Still, we have no national ocean policy to establish a comprehensive, coherent, and consistent national ocean policy. It is critical that we enact the Oceans Act of 2000 this year.

We have long needed to take a hard look at the legacy of the Stratton Commission, and I am pleased to report that we are making progress towards this goal. On April 13, 2000, the Committee on Commerce, Science, and Transportation favorably reported the Oceans Act, S. 2327, from the Committee, and it is likely that the full Senate will consider the measure this month. Companion legislation has been introduced by Representatives Saxton, Greenwood, and Farr on the House side. I will continue to work with House members to ensure national oceans commission legislation is enacted this year.

History has taught us that Congressional support and participation is essential to ensuring the long-term success of this truly national ocean effort. We are off to a very good start. Our current bill enjoys wide support in the Senate. Industry, conservation groups, scientists, and states have also expressed their strong support and have sent numerous letters over the past several months. Most recently, we have received support letters signed by the fifty-three member institutions of the Consortium for Oceanographic Research and Education, and from the Chairman of the National Academy of Sciences’ National Research Council.

The Stratton Commission stated in 1969: “How fully and wisely the United States uses the sea in the decades ahead will affect profoundly its security, its economy, its ability to meet increasing demands for food and raw materials, its position and influence in the world community, and the quality of the environment in which people live”. Those words are as true today as they were 30 years ago. The time to establish a second national ocean commission is now. As a nation, we must consider the challenges and opportunities that lie ahead and ensure the development of an integrated national ocean and coastal policy to deal with them well into the next millennium. ➤

## **Ocean Report Task Force**

*by Ellen M. Athas*

*Associate Director for Oceans, Coasts  
and Environmental Policy,  
Council on Environmental Quality*

In June 1998, the President and Vice President hosted the Ocean Conference to hear from scientists, policymakers, industry leaders and environmentalists about the state of our oceans. More than one year later, the Secretaries of the Navy and Commerce presented, on behalf of the entire Cabinet, the Ocean Report Turning to the Sea: America's Ocean Future setting forth important ocean issues and recommendations.

Upon receiving the report, Vice President Gore established the Ocean Report Task Force to select specific recommendations from the Report and make them a reality within the timeframe of this Administration. The Ocean Report Task Force is co-chaired by George Frampton of the Council on Environmental Quality and Jim Steinberg of the National Security Council, and all federal agencies involved with oceans issues are represented at the Assistant or Deputy Secretary level. Since last September, the Task Force has had three meetings, and the Task Force's working group has met on at least a dozen occasions.

The Task Force has selected specific recommendations set forth in the Ocean Report on which to act immediately. First, the Task Force looked to recommendations that would result in on-the-ground improvements to our nation's oceans. Second, the Task Force focused on high level recommendations that could be accomplished between 1999 and December 2000. However, certain high level priorities of great importance to all members of the Task Force were not included, because they could not be accomplished in the limited time period. Further, the Task Force did not seek to duplicate the efforts of ongoing initiatives, including the work of the Coral Reef Task Force, Clean Water Action Plan and the Marine Transport Safety Initiative. Instead, the Task Force focused on specific recommendations that could be completed within a time period of 17 months.

The Ocean Report Task Force has brought together all agencies involved with oceans issues to speak with one voice

about accomplishing set goals. Agency affiliations were "left at the front door" for each meeting, and all agencies concentrated on the efforts needed to accomplish the specific recommendations. Recommendations were discussed, selected and approved. Work plans have been recommended, setting forth both the work that needs to be accomplished by December 2000 and the milestones that must be met in the shorter term. The working group is reporting back on the timely completion of the work and keeping the Task Force apprised of progress.

In the area of Marine Protected Areas, three of the action plan items are already moving forward quickly. First, on May 26, the President signed the Marine Protected Area Executive Order, creating a coordinated marine protected area center with an advisory committee of scientists and other interested parties to recommend the level of protection needed for both representative ocean habitats and a biologically connected reserve system. Next, the agencies have forwarded draft legislation to Capitol Hill for the establishment of a National Marine Sanctuary Foundation. Third, the President has directed the Secretaries of Commerce and the Interior to recommend by August 31, 2000, a protection plan for the Northwestern Hawaiian Islands—home to almost 70% of our nation's coral reefs. To accomplish this mandate, the two Departments are working together to gather information on these uninhabited islands, conduct visioning sessions to assure that all views of the public are taken into consideration and prepare recommendations for the President.

Two specific projects to protect two endangered species are proceeding under the Marine Protected Species recommendations. First, the National Oceanic and Atmospheric Administration (NOAA) is concluding its survey of nesting beaches of Pacific Leatherback sea turtles in Mexico, Costa Rica and Nicaragua. Then, NOAA will work to increase patrols of nest sites through voluntary and governmental cooperation. By the end of the year, NOAA will work with Costa Rica to finalize its plan of action for the next nesting season and begin work to increase survivorship (by 25% within 1 year) on Indonesian beaches. Second, NOAA is working to reduce immediately the North Atlantic right whales' fishing gear entanglements by meeting with interested stakeholders and, by De-

cember 2000, completing a pilot project and field tests for gear that will allow the whales to free themselves from entanglement.

Several other recommendations in other areas are also progressing. The goal in the area of International Fisheries is to bring the U.N. Fish Stocks and FAO Compliance Agreements into force, develop National Plans and Global Action Plans to address fishing capacity, seabird bycatch, shark conservation, and illegal, unregulated and unreported fishing. To assure that only environmentally sound aquaculture continues, NOAA will begin development of a draft Code of Conduct for Responsible Aquaculture, which will be issued by January 2000 in draft form. Simultaneously, EPA is developing Aquaculture Effluent Limitations Guidelines and Standards to reduce the discharge of nutrients. This will include evaluations of existing aquaculture facilities and collections of data on best available technologies. The Biotechnology working group is reviewing the complex issue of ocean bioprospecting to establish a set of principles by December and launch a pilot partnership. Work is also progressing to coordinate with the Federal Emergency Management Agency (FEMA) to review coastal policies, to strengthen marine law enforcement, to protect submerged heritage resources, to coordinate environmental law enforcement, and to complete pilot programs on digital coast information.

The next meeting of the Ocean Report Task Force is scheduled for late July, and, the Task Force will continue to follow the progress of each of these initiatives throughout the fall and early winter. Even with an upcoming change in Administration planned, the Ocean Report Task Force remains committed to fulfilling its mandate to on-the-ground improvements to our nation's oceans during this Administration. ➤

## **Pew Oceans Commission Established**

*by Jimmy Powell*

*Staff Director, Pew Oceans Commission*

Governor Christine Todd Whitman of New Jersey and former California Congressman and White House Chief of Staff Leon Panetta will lead an independent commis-

sion to assess the condition of America's oceans and living marine resources, and set national priorities to restore and protect them for future generations. The bipartisan group made up principally of leaders from business, science and government also includes fishermen and conservationists and is to be known as the Pew Oceans Commission.

Governor Whitman said she agreed to lead the Commission because, "The impacts of coastal development, pollution and some commercial fishing practices have led to declining prospects for many of our most cherished marine species—whales, dolphins, turtles, coral and seabirds. These creatures and the thousands of other organisms that share our seas are tremendously important to the American people. Assuring that our sea life will continue to populate our coastal waters prompts this comprehensive, science-based search for the measures necessary to protect them."

Working with distinguished scientists, public officials, business leaders, conservation and fishing interests on the Pew Oceans Commission, Whitman and Panetta will hold regional hearings and issue several reports, before delivering a final set of recommendations to Congress and the nation in early 2002. "We don't have all the answers today," said Panetta who is to be vice chair of the group. "We will need to work as partners with all of those who have a stake in the future of our oceans to accomplish our mission."

The commission was created by The Pew Charitable Trusts, one of the nation's largest philanthropies. Rebecca Rimel, President of the Trusts said it was established because, "Our marine environment is facing a greater array of problems than ever before in history. The adverse impacts of overfishing, unplanned development, and pollution that continues unabated despite well-intended laws have led to the collapse of major fisheries in New England, a dead zone in the Gulf of Mexico covering thousands of square miles, and the tragic waste of millions of fish, mammals and seabirds needlessly killed and discarded as unwanted bycatch each year. We believe that a commission made up of distinguished and thoughtful Americans can make an enormous contribution to restoring and protecting our marine environment."

The Commission will focus on the impacts of coastal development, pollution, fishing practices, climate change, and invasive species on marine life in U.S. waters.

The members of the Commission are:

- Hon. Christine Todd Whitman, Chair, Governor of New Jersey;
- Hon. Leon E. Panetta, Vice Chair, former Member of Congress, Chair of the House Budget Committee, Director of the Office of Management and Budget and White House Chief of Staff;
- Mr. John Adams, Founder and President of the Natural Resources Defense Council;
- Mr. Robert H. Campbell, retired Chairman and CEO of Sunoco, Inc.;
- Hon. Mike Hayden, President and CEO of the American Sportfishing Association and former Governor of Kansas and Assistant Secretary for Fish, Wildlife, and Parks at the U.S. Department of Interior;
- Dr. Charles F. Kennel, Director of Scripps Institution of Oceanography;
- Hon. Tony Knowles, Governor of Alaska and former Mayor of Anchorage;
- Dr. Jane Lubchenco, Professor of Marine Biology at Oregon State University and former President of the American Association for the Advancement of Science;
- Ms. Julie Packard, Executive Director of the Monterey Bay Aquarium and Vice Chair of the David and Lucile Packard Foundation Board of Directors;
- Hon. Pietro Parravano, Commercial Fisherman and President, Pacific Coast Federation of Fishermen's Associations and elected member of the San Mateo County Harbor Commission;
- Hon. Joseph P. Riley, Mayor of Charleston, South Carolina;
- Mr. David Rockefeller, Jr., Director and former Chair of Rockefeller & Co., Inc.;
- Vice Admiral Roger T. Rufe, Jr., U.S. Coast Guard (Retired), President and

CEO of the Center for Marine Conservation;

- Dr. Kathryn D. Sullivan, President of COSI, Inc. and former Astronaut and Chief Scientist of NOAA;
- Ms. Marilyn Ware, Chairman of the Board of the American Water Works Company, Inc.;
- Mr. Patten D. White, Commercial Fisherman and Executive Director, Maine Lobstermen's Association;
- Mr. Stephen M. Wolf, Chairman of US Airways, Inc.; and
- Hon. Eileen Claussen (ex officio), Chair of the Board and President of Strategies for the Global Environment and former Assistant Secretary for Oceans, Environment, and Science, U.S. Department of State.

The Commission will hold its first meeting in Washington, D.C. on July 6 and 7. Additional background information on the commission can be found at <http://www.pewoceans.org>. ➤

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## **Congressional Corner**

### **The House Oceans Caucus**

*by Bruce F. Molnia,  
Legislative Fellow, Office of  
Congressman Curt Weldon  
(coordinating Caucus activities)*

*As our quality of life, security, health, and economic well being are fundamentally tied to the World's ocean, the House Oceans Caucus will be a bipartisan forum, building awareness, exchanging information and ideas, exploring important issues, and developing and implementing ocean policy legislation to meet national and international needs. — House Ocean Caucus Vision Statement*

As noted in this newsletter volume 1, number 4, late last year, Congressmen Tom Allen (D-ME), Sam Farr (D-CA), Jim Greenwood (R-PA), and Curt Weldon (R-PA) met to develop a mechanism that would permit Members of the House of

Representatives interested in ocean issues to develop both a voice and a visible presence. The result, the House Oceans Caucus, debuted this February. The Mission Statement developed by the four Congressmen, who now serve as its co-chairs, defines the Caucus:

*The House Oceans Caucus will create a voice within the Congress on ocean issues by building a constituency of interested members. The Caucus will serve as the focal point for increasing House of Representatives awareness on issues of ocean policy by developing legislation to meet national and international needs. During the remainder of the 106<sup>th</sup> Congress, the issues that the Caucus will emphasize are security, governance, biology, and pollution.*

Caucus staff quickly began working to formulate and organize activities that would develop an identity for the Caucus and to recruit additional Members. The following tasks were identified as critical for developing a successful Caucus and for raising ocean awareness in the Congress:

- preparation and distribution of summaries of key national and international ocean issues,
- establishment of a World Wide Web site providing summaries of issues and information and providing links to diverse information sources about ocean issues,
- organization and presentation of briefings,
- hosting of policy development and science meetings,
- serving as a focal point for formulating policy, and
- developing outreach products to educate Congress and the public about ocean-related policy issues.

The Caucus has made progress on each of these tasks during the last quarter of the 106<sup>th</sup> Congress.

For example, beginning in March, the Caucus hosted four monthly briefings,

each exploring issues related to the four topics identified in the Caucus Mission Statement. The March Biology Briefing examined *Marine Protected Areas: Opportunities and Challenges for Effective Use*. The April Pollution Briefing focused on *Pollution in the Coastal Ocean: Impacts, Commerce, Ecosystems, and Human Health*. In May, the Security Briefing addressed two issues: *Consequences of Not Ratifying the Law of the Sea Convention*, and *Ocean Observations and Security*. The June Governance Briefing addressed *Ocean Management for the 21<sup>st</sup> Century*. Summaries of these presentations can be found on the Caucus' web site: web site [www.house.gov/curtweldon/oceans](http://www.house.gov/curtweldon/oceans).

Later this month, the Caucus will participate in two significant science and policy events. On July 17th, the American Association for the Advancement of Science (AAAS) in conjunction with the International Union for the Conservation of Nature (IUCN) and the Curtis and Edith Munson Foundation, Inc., will host *International Ocean Science Day*. Its purpose is to compile and evaluate information necessary for the Oceans Caucus to develop legislation on three topics: *Fisheries; Pollution & Health; and Gas Hydrates: Implications for Energy, Climate, and Marine Ecosystems*. The first two topics closely parallel the March and April Caucus briefings. The third topic will likely be considered by the Caucus early in the 107<sup>th</sup> Congress. Panels considering each topic will provide multiple perspectives about each issue. The panels will be composed of experts from the private sector, academia, the non-governmental organization community, and Federal Agencies. A facilitator will prepare a summary of the findings from the *Fisheries* and the *Pollution and Health* presentations so that the Caucus can consider these perspectives in its deliberations during *Ocean Policy Development Day* on July 18th. *International Ocean Science Day* will be held in the Auditorium of the American Association for the Advancement of Science at 1200 New York Ave. N.W., Washington D.C. 20005.

On July 18th, the AAAS and the American Geophysical Union (AGU) in conjunction with the U.S. Navy (USN), will host a day-long forum for the compilation of information necessary for the House Oceans Caucus to develop legislation on the Caucus' four topics. Panels will be composed of Caucus Members, representatives from

Federal Agencies, and other experts from the private sector, academia, and the non-governmental organization community. A facilitator will prepare a summary of each presentation so that the Caucus can consider each perspective in its deliberations during legislation development. The July 18th panels and presentations will be held in the Cannon Caucus Room of the Cannon House Office Building. Details and additional information about these events will be posted on the Caucus web site. ➤

## **CZMA and CARA: A Rare Opportunity to Invest in Our Nation's Coasts**

*by Anthony MacDonald  
Coastal States Organization*

Summer has arrived. We are reminded again of the beauty, value and importance of our coasts and oceans. Unfortunately, the lure of the coast is also evident in weekend traffic jams and ever-increasing pressure for growth and development in coastal communities. To address the pressures of population growth and over-use, it will take an expanded commitment to protect coastal and ocean resources for future generations.

This is also an election year. The Conventions are fast approaching and the election season is already grinding into high gear. Amid the political tumult, Congress has an opportunity to make an unprecedented commitment to protecting our nation's coasts and oceans. The reauthorization of the Coastal Zone Management Act (CZMA) is pending, and proposals are being considered in the House and Senate to dedicate up to \$1 billion dollars in revenues annually from Outer Continental Shelf (OCS) revenues to coastal resource protection and conservation.

The CZMA reauthorization and the Conservation and Reinvestment Act (CARA) are two sides of the same coin. The CZMA sets the framework for an effective state-federal partnership that assures the planning, coordination and administration needed for the proper stewardship of coastal resources. CARA, for the first time, will provide a sustained and substantial commitment of funding for implemen-

tation of projects and activities that will ensure the long term conservation of coastal and living marine resources.

The challenge to the coastal and ocean community in this political climate is to get involved. Educate your Congressional Representatives about the importance of coastal and ocean issues. Urge Congress to seize the opportunity to reauthorize the CZMA and to pass consensus OCS revenue sharing legislation that provides for a substantial reinvestment in our Nation's coastal resources. One of the advantages of this being an election year is that politicians are particular attuned to the demands of their constituents — that means you.

### **The Coastal Zone Management Act**

The House Resources Committee was the first out-of-the-box acting last August to approve The Coastal Community Conservation Act (H.R. 2669) which would reauthorize the CZMA for five years. The bill incorporates recommendations made by the states and the Administration to provide substantial increases in funding authorizations for CZMA grants and grants to support the National Estuarine Reserve System (NERRS), and includes new authority for the states targeted to work with local communities to plan for and manage growth. However, the bill also focuses most of the funding increases to implement community based "projects," akin to those currently eligible for funding under Section 306A of the Act, rather than providing increased funding for base program administration and planning grants under Section 306.

During its consideration of the bill, the Resources Committee approved two amendments that have stalled further progress in moving the bill to the House floor. One amendment stuck provisions championed by the bill sponsor and Subcommittee Chair Jim Saxton (R-NJ) that would require states to use approximately \$10 million of funds appropriated annually for community assistance grants to address coastal nonpoint pollution. The second amendment, approved by a Committee vote of 23-22, added controversial "takings" language that is opposed by states, local governments, environmental community and the Administration. Until a compromise can be reached on these issues, it is unlikely that the House Leadership will schedule CZMA for a floor vote.

On June 15th, the Senate Commerce Committee by unanimous voice vote, approved its version of the CZMA reauthorization, S. 1534. The substitute bill that was approved was jointly sponsored by the Subcommittee Chair Olympia Snowe (R-ME), and the ranking minority member, John Kerry (D-MA). The Senate bill closely tracks the reauthorization recommendations of the states and the Administration. Although the funding levels for state grants are lower than recommended in the Administration's FY2001 budget, they do provide substantial increases for both coastal program and NERRS grants. The bill also includes new authority and separate funding for state grants to assist communities to manage growth. Unlike their House counterparts, the Senate Commerce Committee was able to reach a bipartisan agreement to target a portion of the funding from the community grants to implement nonpoint pollution control strategies and measures. The states are urging the Senate to work out any remaining issues, and to take it to the floor for a vote as soon as possible.

The CZMA bill has traditionally enjoyed broad bipartisan support in Congress. More importantly, it continues to provide benefits far in excess of dollars spent, and is widely supported in the states and communities. Now, it is up to the coastal community to push Congress to enact CZMA reauthorization this year.

### **The Conservation and Reinvestment Act**

The House, by a vote of 315-112, recently approved the Conservation and Reinvestment Act, H.R. 701. This historic legislation would dedicate \$2.85 billion annually from Outer Continental Shelf (OCS) revenues to a variety of conservation programs, including coastal conservation and impact assistance, the Land and Water Conservation Fund, wildlife protection, historic preservation, urban parks and much more. \$1 billion would be distributed to coastal states, including the Great Lakes and island Territories for coastal conservation and mitigating the impacts of OCS development on states with production off their shores. The compromise legislation was shepherded by the unlikely partnership of Representative Don Young (R-AK) and George Miller (D-CA.) These two congressmen rarely agree on anything. The

following comments focus on the coastal provisions of the bill.

The coastal funding would be distributed to the states based on a formula — 50 percent based on proximity to production, 25 percent based on coastal population, and 25 percent based on shoreline mileage. The states would be required to develop a plan, in consultation with the public, for expending the funds consistent with the purposes of the Act. Those purposes include: habitat restoration and protection; implementation of comprehensive coastal and estuarine management plans; data and surveys relating to marine fisheries; cooperative fisheries enforcement; management of nonindigenous aquatic nuisance species; certain relevant science and research; and, mitigation of impacts of OCS development. There is considerable flexibility for the states to work with local communities to identify and fund the coastal priorities tailored to their particular needs.

Changes were included in the final version of the bill providing that the formula for distribution of funding to the states would be based only on existing OCS production; thereby, ameliorating concerns from some in the environmental community that the bill would create incentives for additional OCS development. Some environmental groups; however, continue to object to provisions of the House bill that direct that a portion of the funds in producing states be paid directly to coastal counties and parishes based on their proximity to OCS development, and to provisions permitting producing states to use a portion of their funds to mitigate impacts other than environmental impacts.

On the other end of the political spectrum, there is still significant opposition from so-called private property rights groups, mostly in western states, opposed to acquisition of any more of federal property. In the Senate, some western Senators are joining forces with "budget hawks," who oppose dedicating \$2.85 billion annually in a special fund, to block consideration of CARA. CSO has been working with an incredibly diverse cross-section of constituent groups to carry momentum from the House action over into the Senate. The Energy and Natural Resources (ENR) Committee is currently scheduled to consider OCS revenue sharing legislation on June 27-28. There are three versions of the bill pending before the Committee.



## **Federal Agencies' Corner**

### **New Action Protects California Sanctuaries from Catastrophic Oil Spills**

*By Brady Phillips  
Marine Sanctuaries Division, NOAA*

Senator Mary Landrieu (D-LA) and Senator Frank Murkowski (R-AK), have been the primary proponents of CARA in the Senate. They introduced both S. 25 last year and S. 2123 this year which is almost identical to the House-passed bill. As Chair of the ENR Committee, Senator Murkowski has a particularly difficult task in guiding a bill through his Committee which is dominated by conservative representatives from Western States. In addition, the ranking minority member on the Committee, Sen. Jeff Bingaman's (D-NM) has introduced his own version of the bill (S. 2181).

Compared with CARA, S.2181 would reduce the level of funding available for coastal conservation and impact assistance substantially, primarily by limiting the funding for Louisiana's conservation and impacts assistance needs. It would also break the coastal funding into several separate pots dedicated to conservation; impact assistance; fisheries; and coral reefs. The bill would set aside 50 percent of the coastal conservation funds for competitive grants, rather than allocating the funds to the states and would more specifically target how those funds could be used.

It would take substantially more space than is available today to compare the details of the various bills. I think it is fair to say the essential common elements of the bills are much more significant than their differences. In preparation of the impending mark-up, the Committee staffs and other Senate staff are working hard to bridge the gaps and to come to a compromise that the Committee can approve and take to the Senate floor.

Everyone in the coastal and ocean community has a direct stake in working to overcome differences and forging a compromise. Passage of legislation this year based on CARA, will result in the most significant commitment of funding for the conservation of coastal and living marine resources in our nation's history.

If you would like more information on CZMA or CARA contact CSO at 202-508-3860. ➤

The threat of hazardous spills resulting from vessel collisions and groundings along California's central coast was greatly reduced in May 2000, as the United Nations' International Maritime Organization finalized a U.S. proposal to move large ships further offshore and modify certain approaches to and from major ports. These new routing measures are primarily designed to improve protection of the Monterey Bay National Marine Sanctuary, the Gulf of the Farallones and Channel Islands National Marine Sanctuaries, and to ensure safe, efficient and environmentally sound transportation within this vital global trade corridor. Officials from NOAA and the U.S. Coast Guard announced the details of the IMO approval at a ceremony held on San Francisco's Yerba Buena Island on May 31, 2000.

Meeting in London, the IMO gave final approval to the shipping lane proposal developed through a two-year collaborative effort led by the Monterey Bay National Marine Sanctuary and the U.S. Coast Guard. In a series of meetings along the central California coast, participants from local, state and federal government agencies, the shipping and oil industries, environmental groups and elected officials played key roles in crafting the final solution.

"This landmark agreement is an excellent example of how NOAA's National Marine Sanctuaries can be a catalyst to bring agencies, industry and environmental groups together to protect marine resources and ensure the viability of the region's critical shipping industry," said Secretary of Commerce William Daley. "This cooperative effort allowed the group to reach consensus on the vessel traffic recommendations and stands as a model for resolving other resource management issues around the country."

More than 4,000 large vessels transit the central California coast every year, most traveling between 2.5 and 15 miles from

the Monterey Bay Sanctuary's shoreline. They pose a potential risk of catastrophic spills from the large amounts of heavy fuel oil they use to power themselves. The proposal announced today will place large vessels further offshore in north-south tracks ranging from 13 to 20 nautical miles from shore between Big Sur and the San Mateo coastline. Ships carrying hazardous materials would follow north-south tracks between 25 and 30 NM from shore. Tankers would remain at least 50 NM offshore. To facilitate the alignment of these offshore routes, the proposal also extends the vessel traffic separation lanes in the western end of the Santa Barbara Channel and rotates the southern-most approach into San Francisco Bay further offshore to reduce the risk of grounding. ➤

### **National Shoreline Management Study**

*by Lynn R. Martin  
U.S. Army Corps of Engineers*

The Army Corps of Engineers has initiated planning for a National Shoreline Management Study (NSMS) under the authority of Section 215(c) of the Water Resources Development Act of 1999. The legislation authorizes preparation of a report to Congress on the state of the shores of the United States and presents the opportunity to comprehensively examine the status of the Nation's shoreline for the first time in 30 years. Study products will provide information useful for policy analysis, land use planning and coastal resources management. The preliminary efforts underway are in anticipation of funding being made available for the study in 2001.

In 1971, the Corps published the National Shoreline Study. This was the first attempt by the Federal government to compile an analysis of the Nation's shorelines and to develop shore protection management guidelines. The study reported approximately 20,500 miles of ocean, estuarine and Great Lakes shorelines as experiencing significant degrees of erosion, with 2,700 of these miles identified as having critical erosion problems.

Growth and development along the Nation's coastal areas have increased extensively over recent decades and are expected to continue. Federal, state and lo-

cal policies and programs affecting shoreline management have evolved independently and there is growing confusion as to how the different programs and responsibilities interrelate. The public has expressed a demand for both infrastructure and services to support economic growth, and a demand to protect the environment and to restore natural resource systems.

The study is intended to update and develop information needed for current and future policies, decisions and programs related to shore protection and coastal management. The study will examine the extent and causes of shoreline erosion and accretion, and discuss the economic and environmental effects of these processes. It will describe the current Federal, state and local programs related to shore restoration and renourishment, which have evolved in recent decades. The study will provide a technical basis and analytical information useful in developing recommendations on levels of Federal and non-Federal participation in shore protection, and system approaches to sediment management. Additional information about the study will be included in future issues of this newsletter. ➤

### **Conserving Coral Reefs: U.S. Coral Reef Task Force**

*by Roger B. Griffiths  
National Oceanic and Atmospheric  
Administration  
U.S. Department of Commerce,  
Washington, D.C.*

In response to increasing deterioration of the world's coral reefs, President Clinton established the U.S. Coral Reef Task Force (CRTF) through Executive Order #13089 as part of the National Ocean Conference in June 1998. The CRTF is charged with leading U.S. efforts to address the growing coral reef crisis, and implementing specific tasks outlined in the Executive Order such as mapping all U.S. coral reefs, developing and implementing a comprehensive coral reef monitoring program, and addressing the U.S. role in sustainable use of coral reefs abroad. The CRTF is also charged with overseeing the policy elements of the Executive Order.

In the past two years, the CRTF has made significant progress on these tasks and

helped bring new attention to the causes, consequences and solutions to coral reef degradation. These efforts culminated at the March 2000 CRTF meeting in Washington, D.C., where the CRTF unanimously adopted the first comprehensive strategy for U.S. actions on coral reefs. This *National Action Plan for Coral Reefs* is a combination of visionary strategies and specific actions designed to focus U.S. efforts on the major conservation issues facing coral ecosystems today.

The National Action Plan is an important milestone in U.S. approaches to coral reef management for a number of reasons. Here are a few highlights.

First, the plan includes actions and recommendations to be addressed by not only federal agencies, but also states, territories and commonwealths with management responsibilities for coral reefs. This reflects the powerful partnership the CRTF has nurtured between federal agencies, states, territories and commonwealths through their membership and active participation in what was originally a Task Force made up only of federal agency representatives.

Second, the plan clearly outlines major issues across the spectrum from research and education to management and policy to address the coral reef crisis. It provides clear, creative and, at times, controversial proposals for addressing them. Based on current science and management experience, for example, one of the plan's goals is the establishment of "no-take" ecological reserves for 20% of all U.S. coral reefs by 2010. Given the importance of coral reef ecosystems to fishing, tourism and other uses, this strategy is designed to ensure that there is adequate coral reef habitat set aside to continue to "reseed" other reef areas. This goal is part of a larger effort to design a network of coral reef marine protected areas of varying types and uses.

The CRTF has also launched major new efforts to implement other portions of the National Action Plan. For example, efforts were launched this year by the National Oceanic and Atmospheric Administration (NOAA), the Department of the Interior (DOI) and other CRTF members to begin comprehensive mapping of U.S. coral reefs in the Pacific, where less than 5% of the coral reefs have been adequately mapped and assessed. About 70% of all U.S. coral reefs are in the Pacific. Major efforts are also underway to build a national coral reef monitoring capability, restore reefs dam-

aged by ship groundings, and support state and local coral reef management efforts. Most of these activities were made possible by new funding to NOAA (\$ 6 million) and DOI (\$ 5 million) in fiscal year 2000, the first funding received for these coral reef activities.

To help implement the CRTF National Action Plan, President Clinton's FY 2001 budget requests a total of \$ 26 million - \$15 in new funding (\$ 10 million NOAA, \$5 million DOI) —to provide the resources needed to help implement the CRTF's National Action Plan. At press time for this article, the U.S. Congress had not completed its appropriations process although the House of Representatives appeared to have eliminated all funding for coral reef activities in NOAA's FY 2000 budget.

The next meeting of the CRTF is August 5-7, 2000. For more information on the CRTF, upcoming meetings, or to review the National Action Plan and other CRTF documents, please visit the CRTF web site at <http://coralreef.gov/> ➤

### **The Marine Transportation System Gathers Steam**

*by Michael Carter  
U.S. Maritime Administration*

The Marine Transportation System (MTS) is the major import method for 67% of the consumer goods purchased by Americans and serves as a critical environmental resource for fisheries and recreation. The system faces significant challenges in order to meet the needs of America in the 21st century global economy. The MTS Initiative began in 1998 to establish the public-private partnership that could meet those challenges. The past several months have been busy for the MTS Initiative. Major strides have occurred in addressing one of the most significant challenges — organizing the vast array of public and private sector stakeholders to foster cooperation and coordination in identifying priorities and leveraging limited resources.

MTS stakeholders are many, ranging from commercial, navigation, and environmental interests to federal, state, and local governments. This diversity has resulted in a fragmented approach to maritime issues causing industry sectors and govern-



ment agencies, both horizontally and vertically, to focus on discrete issues and develop narrow fixes. As a result, while other transportation sectors have captured the public limelight and limited public resources to address critical system and infrastructure needs, marine transportation has not had a sense of priority.

Recognizing the importance of the MTS to America's future and facing the challenges ahead was a good first step. The last several months have focused on the second hurdle—organizing the MTS community to take responsibility for and act cooperatively to address challenges.

Nationally, the Interagency Committee on the MTS (ICMTS) was formed to coordinate and establish cooperation among federal agencies. Non-federal stakeholders have organized as the MTS National Advisory Council (MTSNAC). This forum will provide non-federal stakeholders information and advice to Secretary of Transportation Slater on critical national MTS issues. It will also interact with its federal counterpart. Both groups recognize the importance of public-private cooperation and coordination vital to meet the MTS challenges.

At the local level, progress was made in expanding the scope of local harbor safety committees to encompass more broadly local MTS issues. These committees will be key to organizing local resources and address local priorities.

Finally, MARAD, USCG, NOAA, USACOE, EPA, and other partners began a series of seven regional dialogue sessions encouraging establishment of regional MTS organizations to coordinate resources and embrace regional issues.

Although much remains to be done, this framework and the linkages among the national, regional, and local groups is a significant step toward achieving the MTS vision. MARAD. ➤

## ***Coastal States' Corner***

### **♦ *California Ocean Management Update* ♦**

#### **National Ocean Initiatives-California and Other Coastal States Have Much To Offer**

*by Brian E. Baird,  
California Ocean Program Manager and  
Chair, Ocean Policy Committee, Coastal  
States Organization*

President Clinton has recently announced Executive Order 13158 directing federal agencies to strengthen protection of ocean and coastal resources by creating a comprehensive network of Marine Protected Areas (MPAs). The Army Corps of Engineers is launching a national shoreline study to examine the status of the nation's shoreline for the first time in 30 years. Legislation is pending in the U.S. Congress to establish a national ocean commission and the Conservation and Reinvestment Act (currently in the U.S. Senate after being approved by the House of Representatives) could provide substantial funding for ocean, coastal, and other resource management programs. The Pew Foundation has established an independent ocean commission charged with assessing the condition of America's oceans and living marine resources and recommending national priorities to restore and protect them for future generations. These are exciting and dynamic times for ocean and coastal management at the national level.

State participation will be critical in setting the agenda for these initiatives by the Administration, the U.S. Congress, and Non-Governmental Organizations. California's Ocean Resources Management Program has developed model approaches to a wide variety of ocean and coastal management issues. Virtually all of these model approaches rely extensively on partnerships among federal, state, and local agencies, academia, the private sector and the public. My experience as chair of the Ocean Policy Committee for the Coastal States Organization has demonstrated that California is by no means alone in developing such model approaches. All Coastal states and territories must be included as an integral part of the development and imple-

mentation of new national initiatives to manage ocean and coastal resources. These national initiatives have little chance of achieving intended goals unless coastal states are included on a co-equal partnership basis from the start.

#### **California Models for Comprehensive Ocean Resources Management**

In 1991 the Governor signed the amendments to the California Ocean Resources Management Act (CORMA) (Farr 1991; Public Resources Code, 36000 et seq.) into law. CORMA required the California Resources Agency to establish the California Ocean Resources Management Program (Ocean Program) to prepare a strategy to ensure comprehensive and coordinated management, conservation and enhancement of California's ocean resources. This strategy has provided substantial basis for new legislation, actions by administrative agencies, and executive orders issued by the Governor. The administration of Governor Gray Davis is committed to implementing the initiatives listed below which are directly relevant to pressing ocean and coastal issues currently being considered at the national level.

- *Marine Managed Areas.* California just completed a comprehensive analysis of its classification system for marine managed areas (reserves, refuges, preserves, etc.) within state tidelands. Currently California has 18 different classifications of marine managed areas that are so complicated that few people understand them. As a result of this analysis, state legislation is currently pending that would overhaul the existing fragmented array of classifications and create a more logical, understandable, and effective system of 6 classifications. In addition, legislation passed last year (AB 993, The Marine Life Protection Act) requires the State to prepare a master plan to identify representative habitats in state tidelands that require protection from the harvest of living marine resources.
- *Water Quality.* California has substantially improved its ability to monitor water quality and to post beaches where swimming conditions are not safe. In addition, the state's non-point source pollution control plan is expected to receive final approval by both NOAA and EPA sometime in July. The California Coastal Commis-

sion and the State Water Resources Control Board have recently launched a comprehensive effort in California to bring over 28 state departments, boards, and commissions together with other stakeholders to implement this plan in a coordinated fashion.

- **Marine Research.** California has substantially increased its support for marine research conducted by the California Sea Grant Program. In the recently enacted budget, California support was tripled from \$319,000 to \$1million/year. California establishes its research priorities through the Resources Agency Sea Grant Advisory Panel (RASGAP) which is made up of representatives of state agencies, academia, the private sector, and the legislature.
- **Southern California Wetlands Recovery Project.** California has developed a Wetlands Recovery Project for Southern California. This project combines federal, state, and local agencies, and other stakeholders in a united effort to acquire and restore coastal wetlands in Southern California. The Board of Governors for this project recently voted to target 32 wetland and coastal watershed acquisition and/or restoration projects for Southern California.
- **Shoreline Erosion.** California has recently convened the Coastal Sediment Working Group (Corps, state agencies, local governments) in an attempt to identify regional solutions to coastal erosion problems along the state's 1100 miles of exposed coastline. This is the first time such a group has been created on a statewide basis to develop regional approaches to this issue.
- **Fisheries.** California has passed new legislation that substantially revises our approach to managing key fisheries on an ecosystem basis. The Center for Marine Conservation called this the most substantial fisheries legislation in California in 50 years.

### **Moving Forward With National/State Partnerships**

The State of California looks forward to working with the Clinton Administration (and its successor), the U.S. Congress, and Non-Governmental Organizations on new and innovative approaches to ocean and

coastal management at the national level. The State of California believes that this work with marine managed areas, polluted runoff, marine research, wetlands recovery, shoreline erosion, and fisheries can provide models for effective approaches to these issues. However, California is but one coastal state with such experience. The Coastal States Organization and its policy committees (Ocean, Coastal Water Quality, Coastal Hazards, and Island Affairs) can and should play a pivotal role in bringing the resources, experiences, and expertise of all coastal states to the table as these national initiatives are developed and move forward. ➤

## **Hawai'i Ocean Resources Management Update**

*By Kem Lowry  
University of Hawai'i*

In 1990 Hawai'i state government initiated a planning process that resulted in the Hawai'i Ocean Resources Management Plan (ORMP). The ORMP, which identified 66 proposed policies and 364 implementing actions for ten sectors (e.g. fishing, ocean recreation), was adopted by the legislature in 1994.

In 1997, the Marine and Coastal Management Advisory Group, an advisory committee composed of state agency officials and private citizens involved in ocean and coastal issues, commissioned a study of the status of the recommendations in the ORMP. The report, *1998 Review of the Hawai'i Ocean Resources Management Plan*, noted that a decline in tourism and tourism-related expenditures, combined with reductions in federal spending had contributed to a nine-year economic slump in Hawai'i. The state's fiscal crisis reduced funds available for resource management and eroded some public support for management. The report identified seven major ocean management issues, including lack of strategic planning, inadequate regulatory enforcement, inadequate information for management, and outdated management regimes. The report identified thirteen general recommendations and 29 sector specific recommendations.

Other recent significant ocean and coastal management initiatives include:

- Development of the *Coastal Erosion Management Plan* (COEMAP) in 1998. The plan and subsequent efforts by a group of dedicated state officials and university faculty and students have contributed to public understanding of erosion processes generally and, in particular, recognition of how sea-walls contribute to coastal erosion;
- In 1997, the governor approved the EIS and management plan for the National Hawaiian Humpback Whale Sanctuary;
- In 1997 the Kaho'olawe Island Reserve was established after the island served for years as a bombing range by the U.S. Navy. Protests by native Hawaiians in the 1970s and 80s mobilized political support for termination of the bombing and restoration of the island. The ocean area under the Kaho'olawe Island Reserve Commission jurisdiction is approximately 90 square miles and the land area is 45 square miles;
- A Statewide Hazard Mitigation Forum is helping to create greater public awareness of the need for greater setbacks, 'no-build' zones and other ocean hazard mitigation strategies;
- Hawai'i participated in the U.S. All Islands Coral Reef Initiative which has resulted in the formation of the U.S. All Islands CRI Coordinating Committee;
- The University of Hawai'i's Social Science Research Institute has also coordinated coral reef research under the Hawai'i Coral Reef Initiative Research Program;
- In late May 2000, President Clinton directed the U.S. Departments of Commerce and Interior to develop a plan to permanently protect the coral reefs of the Northwest Hawaiian Islands. The Northwest Hawaiian Islands, which include Nihoa and Necker Islands, French Frigate Shoals, Maro Reef and Pearl and Hermes Atoll, are surrounded by a coral reef ecosystem that encompasses more than 11,000 square miles. These reefs provide a habitat to a unique assemblage of species, including protected species such as the endangered leatherback and hawksbill sea turtles and the Hawaiian monk seal. These reefs constitute 70% of all the reefs in

U.S. waters. Federal agencies were mandated to prepare a plan within 90 days.

- The state Coastal Zone Management Program initiated plans to convene an Ocean Summit in 2001. A statewide ocean conference to identify key initiatives for management and use of ocean resources was one of the recommendations of the ORMP review report. ➤

## NonGovernmental Organizations' Corner

### CMC's Ocean Governance Program

By Doug Obegi  
Center for Marine Conservation

For over 25 years, the Center for Marine Conservation (CMC) has been working to protect and conserve our nation's coasts, oceans and marine life. In addition to our work to conserve America's marine fish populations, clean coastal and ocean waters, protect ocean habitat, and protect vulnerable marine wildlife, CMC has been at the forefront of efforts in the NGO community to improve our nation's ocean governance and to develop a comprehensive, coherent national ocean policy. These efforts—to improve the legal and policy framework from which ocean resource management decisions are made—complement our more traditional work in individual program areas. Our goal in this regard is to advance U.S. policy from the issue-by-issue, crisis-management approach that typifies U.S. ocean resource management to an integrated, ecosystem-level approach to ocean resource management.

CMC's opening salvo in this effort was the publication of our *Agenda for the Oceans*, released at the National Ocean Conference in Monterey, California, in June 1998. In the *Agenda* we challenged the President and the Congress to work together to develop a national ocean policy by passing the Oceans Act of 1998. The centerpiece of CMC's efforts has been our championing of the Oceans Act legislation

in the 104<sup>th</sup>, 105<sup>th</sup>, and 106<sup>th</sup> Congresses. This legislation would create a national ocean policy commission, initiating a process to review and improve our current framework of ocean laws and regulations. Although efforts to pass this legislation have been unsuccessful so far, CMC is encouraged by recent developments and continues to work with Congressional staff to encourage Members to co-sponsor this landmark piece of legislation.

In addition to working with Congress to improve U.S. ocean governance, CMC has also worked closely with the Administration to ensure that our current laws are effectively implemented and that federal agencies cooperate effectively with each other. In 1999, CMC published the *Agenda for the Oceans Scorecard*, reviewing the initiatives announced at the National Ocean Conference and the progress to date in implementing them. The key criticism in that report was that the President had left unfulfilled his promise to have the Cabinet report back in one year with recommendations for a long-term federal oceans policy. The Administration responded to this criticism by publishing *Turning to the Sea: America's Ocean Future*, and Vice President Gore convened the Oceans Report Task Force to implement the report. CMC continues to work with others in the ocean conservation community to ensure that the task force makes substantial progress this year in implementing the report.

CMC believes, however, that public support for a sea change in ocean policy—including passage of the Oceans Act—is critical. To that end, we have undertaken substantial outreach efforts, beginning with the attendees of the National Ocean Conference and expanding to include representatives of various ocean user groups, including ports, shipping companies, commercial and recreational fishing groups, coastal states, the oil and gas industry, and others. Today, with nearly every law governing our coasts and oceans due or overdue for reauthorization, it is critically important that we ensure that our nation's next leaders build upon this momentum to protect and conserve our oceans. Ultimately, only with the support of the ocean community—industry, science and academia, and conservation organizations—will we advance U.S. ocean policy into the 21<sup>st</sup> century.

For more information on CMC and the Ocean Governance Program, please visit

our webpage at:

<http://www.cmc-ocean.org>, or contact Eli Weissman at 202-429-5609 or via email at: [eweissman@dccmc.org](mailto:eweissman@dccmc.org). ➤

### New Lure to Hook Fishers on Conservation

by William Oakerson  
Boat Owners Association of the U.S.

Experienced anglers can pass on the ideals of responsible recreational fishing to newcomers to the sport under a program called The Ethical Angler®, launched April 18 by BoatU.S., the nation's largest organization of recreational boaters, and the National Marine Fisheries Service (NMFS).

The Ethical Angler® educates the fishing public using a message that will help protect stocks, their habitat and the future of sport fishing. Rather than "do's and don't's," this code of ethics engages the angler through a set of personal statements of principle.

To make it memorable and eye-catching for publications, teaching situations and public service advertising, the seven-point code is based on the letters in the word "ANGLERS."

The code is available free in camera-ready format for use by fishing clubs, conservation organizations and youth groups that want to promote responsible angling. Natural resource managers and public agencies that wish to help convey this positive message also may adopt The Ethical Angler® code in their newsletters and education materials at no cost.

Individual anglers can obtain an Ethical Angler® sticker to display on their boat, trailer or vehicle as a reminder to the public that anglers care about conservation and responsible fishing practices. To reach them, BoatU.S. and NMFS designed an Internet-based survey that also provides demographic information for the agency. Anglers answering the survey on the BoatU.S. Web site ([www.boatus.com](http://www.boatus.com)) receive an Ethical Angler® sticker. By mid June, nearly 200 anglers had participated. In addition, paper copies are posted in BoatU.S.' 54 retail Marine Centers. Anglers who complete a survey in person re-

ceive an Ethical Angler® sticker from the store clerk.

For more information about The Ethical Angler® and organizational partnerships, contact: [eamgler@boat.us](mailto:eamgler@boat.us) or write: Ryck Lydecker, BoatU.S. Public Affairs, 880 South Pickett Street, Alexandria, VA 22304. To take The Ethical Angler® survey, visit [www.boat.us](http://www.boat.us) and click on "Angler's Alley." BoatU.S., with over 500,000 members, provides a wide variety of services to recreational boaters nationwide and member surveys have shown that well over 60% engage in saltwater and/or freshwater fishing. ➤

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## **International Corner**

### **Australia's Oceans Policy Experience: How to Start to Build a Marine Constituency**

*by Prof. Geoff Wescott\**  
*Deakin University, Melbourne*

*\* Chair of the National Reference Group of the Marine and Coastal Community Network and member of the National Oceans Advisory Group in Australia.*

On 23 December 1998 in the International Year of the Ocean the Australian Federal Government published the world's first Oceans Policy (see this newsletter Vol 1, No. 2)—remarkably taking less than 18 months from the publication of the first discussion document to complete the policy.

How did this happen so quickly?

Like all good stories one has to go behind the scenes and back several years to answer this question.

In 1991 a "Fenner" Conference was held in Canberra with the theme of "protection of marine and estuarine areas: A challenge for Australia". These conferences are funded by a non-government endowment (from Frank Fenner) to stimulate action in areas of perceived neglect in environmental policy. At the conference the Federal Minister for Environment announced a decade long program called "Ocean Rescue 2000." The program had several elements but two sub-programs in particular were to

stand out and greatly assist Australia's preparation of an Oceans Policy.

The first was the commitment to preparation of a State of the Marine Environment Report (known instantly as SOMER) which when published in 1996 collated the then current state of knowledge of the marine environment. This report provided the basic knowledge on which the Oceans Policy could be constructed.

The second commitment was to establish and fund a Marine and Coastal Community Network. I remember well attending the first meeting, along with five others, in Sydney in May 1993 of what was rather gloriously called the National Implementation Committee. The committee had been formed by the Australian Marine Conservation Society, a non-government conservation organization which had been given the contract to establish the Network. The Network's role was to raise consciousness of the marine and coastal environment and to promote its ecologically sustainable use. It was not to take sides in any debate on marine issues and not become involved in partisan politics but to draw together Australians interested in the marine and coastal environment (i.e. be an "honest broker") and act as an advocate for the marine and coastal environment.

The first meeting set in place a mission statement and operating principles and set about its task. By October 1993, a Southern Regional Coordinator had been placed in Melbourne and a Northern Regional Coordinator in Darwin. The idea caught on rapidly and very soon afterwards a Western Australian, New South Wales, South Australian and Tasmanian Regional Coordinator were in place.

The Network is composed of 'participants' who join and receive a bi-monthly hard copy magazine (called 'Waves') and a copy of their state's news (called "Ripples"). The number of participants has climbed steadily in both total number and diversity (all sectors are represented) until nearly 8,000 are now on the mailing list. But it was the role the network (now funded at \$A600,000 by the Federal Government) played in the development of a constituency for the Oceans Policy which is most notable.

In March 1997, the Federal Government published a paper on its proposed "comprehensive and integrated Oceans Policy." After a period for submissions of 8 weeks,

63 submissions had been received—predominantly from academics and NGOs.

This was a rather disappointing number considering the difficulties an over arching policy was going to face from well entrenched sectoral interests. The government department running the policy (Environment Australia) and the Network set out to rectify this problem.

The agency targeted a series of sectoral groups (e.g. conservation groups) who had not responded in the numbers expected and the Network who had earlier surveyed its participants on the critical issues now set up seminars and meetings across the country, cajoled the media and turned its concentrated efforts into increasing the response rate to the second set of documentation—the Issue Paper—published in May 1998. One of the key methods it used was to say to people "don't be overwhelmed by the breadth of the document or its policy-based remote language but just find some issue, some item in the Policy which you want to comment on and start there." Then if one felt comfortable go on to comment on any other issues. This seemed to work as in this round of public submissions 660 people responded. This allowed the Federal Minister to demonstrate wide-based support for the notion of an integrated, non-sectoral Oceans Policy.

The overall message from this experience is of the importance of first initiating the debate and then persisting with the encouragement of ordinary people to be involved. The outcome so far could never have been anticipated nine years ago when Ocean Rescue 2000 started and certainly not seven short years ago when the Network started to spread its wings. ➤

### **New U.N. Consultation Process on Oceans Begins**

*by Biliana Cicin-Sain*  
*University of Delaware*

For a number of years, international NGOs have been clamoring for a global oceans forum to consider, at the same time and venue, the implementation of the many actions related to ocean and coastal governance which have emanated from recent international agreements related to the oceans, such as the Law of the Sea Convention, Chapter 17 (the oceans chapter) of Agenda 21, the Global Program of Action

to Protect the Marine Environment against Land Based Activities, the Convention on Biological Diversity, and the Climate Change Convention. Similarly, governments have been calling for a greater opportunity to impact how the many U.N. entities charged with ocean program implementation do their work and harmonize their activities to achieve maximum impact. Up until recently, the only major global venue for discussing global ocean issues had been the customary brief review of ocean affairs conducted by the U.N. General Assembly in the Fall of each year and focused on the Secretary General's report on oceans.

As a result of discussions at the 1999 meeting of the U.N. Commission on Sustainable Development and pursuant to U.N. General Assembly Resolution 54/33, a new United Nations Open-ended Informal Consultative Process on Oceans Affairs (UNICPO) has been put into motion, bringing governments, NGOs, and international organizations together to discuss cross-cutting global ocean and coastal management issues. A first meeting of this consultative process was held at U.N. Headquarters in New York on May 30 to June 2, 2000. The three major issues discussed at this meeting included: Illegal, unregulated, and unreported fishing in the high seas (a problem that has grown significantly in recent years), control of land-based sources of marine pollution (which account for more than 70% of marine pollution); and better coordination among U.N. ocean-related entities, especially more transparent and open decisionmaking within the Subcommittee on Oceans and Coastal Areas of the U.N. Administrative Committee on Coordination. As this informal consultative process will provide significant opportunity for NGOs to comment on how global ocean affairs are conducted, we will cover these developments in this newsletter (*for materials emanating from the first meeting, please contact the author at bcs@udel.edu*). ➤

## Commentary

### The Significance of the U.S. Contiguous Zone: A Commentary

by Jon M. Van Dyke  
William S. Richardson School of Law  
University of Hawai'i at Manoa

*Editors' Note: This is the second commentary we are featuring on the Contiguous Zone Proclamation; the first commentary, by attorney John Briscoe, discussed the international law context involved in the proclamation (see this newsletter, Volume 1, No. 3).*

The Contiguous Zone has always been the poor step-child of extended maritime zones – not nearly as glamorous as the Exclusive Economic Zone, with its broad jurisdictional claims and intriguing legal complexities, nor as solid and sovereign as the Territorial Sea, where coastal-state authority is supreme, except for the right of others to engage in innocent passage. In fact, the Contiguous Zone has been deemed so insignificant by U.S. decisionmakers that it took 11 years after President Reagan extended the U.S. Territorial Sea from three to 12 nautical miles in 1988 for another president to notice that the United States no longer even had a Contiguous Zone, and for those 11 years the Territorial Sea and Contiguous Zone both ended at 12 nautical miles from the coast.

Finally, in September 1999, President Clinton issued a Presidential Proclamation extending the U.S. Contiguous Zone to a distance "24 nautical miles from the baselines of the United States," as permitted by Article 33 of the 1982 United Nations Law of the Sea Convention. Presidential Proclamation 7219, 64 Fed. Reg. 48701 (1999). The Proclamation tracks the language of Article 33 in noting that the Contiguous Zone is an area "in which the United States may exercise the control necessary to prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea, and to punish infringement of the above laws and regulations committed within its territory or territorial sea." The Contiguous Zone is thus an enforcement zone, where our Coast Guard can pursue and ap-

prehend those that violate laws in U.S. territory, including the territorial sea.

It is important to emphasize what the Contiguous Zone is not: It is not an area where the U.S. exercises sovereignty and can apply all of its laws. The Clinton Proclamation is careful to note that the establishment of the Contiguous Zone does not in any way impair the right of ships to navigate freely through (or planes to fly over) the Zone, nor does it in any way limit the right to lay submarine cables and pipelines on the seafloor underlying the Zone. It is thus important to recognize that the extension of this Zone to 24 nautical miles does not give the U.S. Coast Guard the right to stop foreign-flag vessels in this Zone that are suspected of carrying drugs or other contraband. These vessels have the same navigational freedoms in the Contiguous Zone that they have on the High Seas, and the flag state has exclusive jurisdiction over any criminal activities that may take place on the ship, unless the activities interfere with the coastal state's resource rights in the exclusive economic zone. In other words, unless the vessel is engaging in activities that pollute the marine environment, is harvesting fish or other resources without permission, or is engaging in unauthorized scientific research, the ship cannot be searched without permission of the flag state.

The Contiguous Zone, in short, is like an enforcement buffer zone, where the Coast Guard can pursue foreign vessels for violations that may have occurred in the territorial sea, ports, or land territory of the United States, plus any violations related to pollution in the exclusive economic zone. But if a foreign-flag vessel has never entered the U.S. territorial sea and is not suspected of engaging in polluting activities, it cannot be searched without permission, even if the U.S. Coast Guard has reason to believe it is carrying drugs or other contraband. It is significant that the Presidential Proclamation does not mention drugs at all. It refers to "customs, fiscal, immigration or sanitary laws," and perhaps drug-smuggling could be included as a "customs" law. But countries differ dramatically on their approaches toward drugs, and the United States has made no broad claim that it has the power to regulate such matters outside its own territory and territorial sea. Article 108 of the Law of the Sea Convention requires countries

to cooperate in suppressing illegal traffic in drugs, but the language is somewhat vague, referring to the requirements of other international conventions.

Article 303(2) of the Law of the Sea Convention authorizes coastal nations to take special measures to protect archeological treasures in the Contiguous Zone, and President Clinton's Proclamation refers to this when it says that "this extension is an important step in preventing the removal of cultural heritage found within 24 nautical miles of the baseline." Sunken ships lying on the sea floor are not "natural resources" that belong to the coastal state pursuant to its authority over resources under Articles 56 and 77, and the status of ancient vessels lying on the ocean floor beyond 24 nautical miles is somewhat murky, with the original flag state, the coastal state, and the salvager all having potential interests in them. But within the Territorial Sea and the Contiguous Zone, the coastal state has the priority interest under Articles 2 and 303.

Although President Clinton's 1999 Contiguous Zone Proclamation resolves some of the unresolved issues concerning U.S. jurisdiction over its coastal waters, it raises other issues, some of which do not have easy answers:

*Is the 24-nautical-mile Contiguous Zone now a norm of customary international law? Can the United States invoke the authority of the 1982 United Nations Law of the Sea Convention even though it has not ratified this treaty?* President Clinton's Proclamation says simply in its introductory sentence that "International law recognizes that coastal nations may establish zones contiguous to their territorial seas, known as contiguous zones." The Proclamation refers to "international law" four more times with regard to the details of the jurisdiction established in this Zone, and it refers to the 1982 United Nations Law of the Sea Convention twice for guidance as to the content of the governing international law principles.

International law is formed by treaties and the practices of states conducted out of a sense of legal obligation. Multilateral treaties can provide evidence of the specific content of customary international law even if they are not universally ratified, if countries respect the treaty as a codification of governing international law. More than 130 countries have now ratified the

1982 Law of the Sea Convention. President Clinton signed the Convention in 1994 and submitted it to the Senate for advice and consent to ratification on October 7, 1994, but, as all the readers of this publication are painfully aware, the Senate has not yet seen fit to act on this submission.

What then is the status of this Convention as applied to the United States? One court has stated that "[a]lthough the...convention is currently pending ratification before the Senate, it nevertheless carries the weight of law from the date of its submission by the President to the Senate," because such submission "expresses to the international community the United States' ultimate intention to be bound by the pact." *United States v. Royal Caribbean Cruises*, 24 F.Supp.2d 155, 159 (D.P.R. 1997). Article 18 of the Vienna Convention on the Law of Treaties says similarly that a country that has signed but not yet ratified a treaty is bound not to defeat the object and purposes of the treaty.

By citing the 1982 Convention in its Proclamation, the United States has confirmed its view (articulated during the Reagan Administration) that the Convention (except for its provisions on the deep seabed) reflects customary international law norms and is binding on the United States as well as on other nations.

*Does the President have the unilateral authority to issue a proclamation extending a U.S. maritime zone?* In March 1983, President Reagan unilaterally declared a 200-nautical-mile Exclusive Economic Zone (Proclamation 5030), and, on December 27, 1988, he extended the U.S. Territorial Sea from three to 12 nautical miles (Proclamation 5928), without any authorization or ratification by Congress. President Clinton's unilateral extension of the Contiguous Zone thus has precedential support, but the question still lurks whether it is appropriate for presidents acting alone to extend U.S. territory and jurisdiction. Shouldn't these important extensions of our national sovereignty and jurisdictional rights be more broad-based decisions involving the legislative branch? All important extensions of U.S. territory have been by joint executive-legislative actions, with only the acquisition of tiny Midway and Wake Islands in the Pacific (in 1867 and 1899) having been done by presidential action alone. President Jefferson initially asserted U.S. jurisdiction over a three-

nautical-mile Territorial Sea claim in 1793, but Congress quickly confirmed it by passing the Neutrality Act of 1794. (For detailed analysis, see Douglas W. Kmiec, *Legal Issues Raised by the Proposed Presidential Proclamation to Extend the Territorial Sea*, 1 Territorial Sea J. 1 (1990); Jack H. Archer and Joan M. Bondareff, *The Role of Congress in Establishing U.S. Sovereignty Over the Expanded Territorial Sea*, 1 Territorial Sea J. 117 (1990); and David M. Forman, M. Casey Jarman & Jon M. Van Dyke, *Filling in a Jurisdictional Void: The New U.S. Territorial Sea*, 2 Territorial Sea J. 1, 7-17 (1992)).

*Does the United States have the same rights over the ocean areas around its nonself-governing territories that it has around the 50 states?* President Clinton has proclaimed "the extension of the contiguous zone of the United States of America, including the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty." The ability of the federal government to regulate the offshore areas around the 50 states has been well established in legislation and caselaw, but its authority over the ocean areas around the five named nonself-governing territories and commonwealths is less secure. The residents of these five island communities do not have a voice in selecting our president or any voting representation in Congress, and thus they remain as nonself-governing colonies. They are almost unique in the world in having neither a voice in determining the laws that bind them nor control over their offshore resources. Their political situation and their inability to control their surrounding oceans appears to be in violation of governing United Nations principles and their status should be reevaluated and restructured in the near future. (See generally Jon M. Van Dyke, *The Evolving Legal Relationships Between the United States and Its Affiliated U.S.-Flag Islands*, 14 U. Hawai'i L. Rev. 445 (1992)).

The United States also has a number of "possessions," i.e., islands without any indigenous populations, such as Johnston, Palmyra, Midway, and Wake in the Pacific. The United States exercises direct control over these islands, and their surrounding waters, but disputes also fester over some of them. Johnston, Palmyra,



and Midway were part of the Kingdom of Hawai'i, and are claimed by some Native Hawaiian groups seeking to reestablish a sovereign Nation of Hawai'i. Wake was historically part of the Marshall Islands, and is now claimed by the recently-independent Republic of the Marshall Islands.

*Does this Proclamation affect federal-state jurisdictional divisions?* President Clinton's Proclamation includes a proviso stating that "Nothing in this proclamation: (a) amends existing Federal or State law." A similar provision was included in President Reagan's 1988 Territorial Sea Proclamation, which said that "Nothing in this Proclamation: (a) extends or otherwise alters existing Federal or State law or any jurisdiction, rights, legal interests, or obligations derived therefrom." The language in the 1988 Proclamation was designed to freeze state jurisdiction at the three-nautical-mile limit, which is where it was established in the 1953 Submerged Lands Act. The result is that the federal government controls everything in the 3-12-nautical-mile part of the U.S. Territorial Sea, and that some matters are simply not regulated at all. (See generally, Forman, Jarman & Van Dyke, cited above). In *United States v. One Big Six Wheel*, 166 F.3d 498 (2d Cir. 1999), for instance, the court ruled that even though the Antiterrorism and Effective Death Penalty Act of 1966, Pub. L. 104-132, 1110 Stat. 1214, extended "federal criminal jurisdiction" from three to 12 nautical miles, it did not amend the Gambling Ship Act, 18 U.S.C. secs. 1081-82, which makes it criminal to gamble only within the first three nautical miles from shore. As a result, the gambling "ships to nowhere" that leave U.S. cities and open up their gaming operations once outside U.S. jurisdiction can apparently do so when three nautical miles offshore instead of waiting until they are 12 miles from shore.

*How are international disputes to be resolved?* The most serious problem resulting from the failure of the Senate to consent to the Law of the Sea Convention is that the United States cannot take advantage of the innovative and carefully-crafted provisions in the Convention establishing dispute-resolution procedures. Part XV of the Convention creates mandatory procedures allowing countries to peaceably settle disputes between, for instance, environmental claims of coastal nations

and navigational claims of maritime powers. The United States negotiators insisted on these provisions, the International Tribunal for the Law of the Sea is now in operation in Hamburg, Germany, and it has already handed down several interesting and important decisions. The extension of U.S. enforcement powers may lead to controversies with other nations, and the inability to invoke these enlightened procedures may lead to increased international tensions.

The extension of the U.S. Contiguous Zone to a distance of 24 nautical miles was an appropriate and important step. It may have been more logical for Congress to play a role in its promulgation, but a unilateral presidential action has some historical support. It is consistent with the language of the 1982 United Nations Law of the Sea Convention, and reinforces the view that the Convention reflects existing customary international law.

But the issuance of this Proclamation also reminds us of the awkward posture of our nation, seeking to act consistently with the Law of the Sea Convention, but still staying outside of its framework and unable to invoke its dispute-resolution mechanisms. Our role in the international maritime community will remain incomplete until the Senate gives its consent to the ratification of this important multilateral treaty. ➤

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## **Meetings**

### **♦ Ongoing Meetings ♦**

#### **The Ocean Forum**

*by Roger McManus  
Special Advisor on Oceans  
Office of the Secretary  
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The Ocean Forum series, a joint initiative of the White House Council on Environmental Quality (CEQ) and the Center for Marine Conservation, was launched in March 2000. The forum aims to bring together a diverse group of ocean interests, including industry, user groups, government, and conservation organizations, to

discuss a wide range of ocean related topics. The forums are open to all who wish to participate and are intentionally informal, with participants sharing ideas over brown bag lunches. In general, invited panelists speak for 25-30 minutes and then the floor is open to discussion and questions.

The first forum, held on March 7, 2000 discussed the idea of an Ocean Budget. The speaker's panel consisted of Elgie Holstein, Wesley Warren, and Randy Lyon of the Office of Management and Budget and Linda Lance of CEQ. The panelists addressed the Administration's proposed budget, the Lands and Oceans Legacy initiative, and the desirability of compiling an annual, federal ocean budget. Over 50 attendees packed the conference room at CEQ for this forum, leading to a change of venue for the second forum in April.

A forum on the National Ocean Economics Project was held on April 20, 2000. The panelists consisted of several of the economists working on the project: Dr. Judith Kildow of the University of Southern California, Hauke Kite-Powell of the Woods Hole Oceanographic Institution's Marine Policy Center and Charles Colgan of the Muskie School for Public Service at the University of Southern Maine. The National Oceans Economics Project will provide the first major analysis of the U.S. ocean economy. It will provide data on ocean-related economic activities and resource trends useful for conflict resolution, investment and management. Project members discussed the project, answered questions, and asked the audience for ideas on how to most effectively formulate the database to meet the needs of potential users.

The topic of the third Forum was the U.S. Coral Reef Task Force which is responsible for coordinating efforts to map, monitor, research, and protect coral reefs throughout the U.S. and its territories. Panelists included Stephen Saunders, Deputy Assistant Secretary for Fish, Wildlife and Parks at the Department of Interior, Roger Griffis, a policy advisor for the Department of Commerce and Danny Aranza, the Director of the Office of Insular Affairs at the Department of Interior. The panelists updated the audience on the activities of the Task Force, including the recently released *National Action Plan* which calls for federal agencies to work together to protect 20% of all American reefs by 2010. They

also answered questions about the upcoming Task Force Meeting in American Samoa.

The next Ocean Forum is scheduled for July 20 at CEQ. The topic is the U.S. Marine Transportation System and invited speakers include Jeffry High, Director of Waterways Management for the U.S. Coast Guard, Michael Carter, Director of Environmental Affairs at the U.S. Maritime Administration, and Tom Chase, Director of Environmental Affairs at the American Association of Port Authorities. The panel will discuss the findings of the Congressionally-mandated Marine Transportation System Task Force. Other possible future topics for the Ocean Forum include a presentation by renowned underwater explorer and author Dr. Sylvia Earle and a discussion of fisheries issues.

♦ ***Forthcoming Meetings*** ♦

**COSU 2000**

A conference on *North American and European Perspectives on Ocean and Coastal Policy: Building Partnerships and Expanding the Technological Frontier* will be held on November 1-4, 2000. The workshop will focus on advances made in nations in Europe and in North America in ocean and coastal management and in technological tools to aid in decisionmaking, and will examine how to synergize existing cross-national and cross-regional collaboration in the field. Conference speakers are drawn from the government, NGO, academic, science, and technology sectors. The workshop is organized by the Center for the Study of Marine Policy, University

of Delaware, NOAA's International Program Office/National Ocean Service, and the Transatlantic Consortium for Marine Policy Education and Research. The conference, COSU 2000, is the seventh international symposium on Coastal and Ocean Space Utilization.

*For further information on the conference, please contact the Conference coordinator:*

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***Ocean & Coastal Policy Network News***

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